



**PUBLIC NOTICE  
WILLIAMSBURG CITY COUNCIL**

The Williamsburg City Council will hold a public hearing on Thursday, January 9, 2014, 2:00 p.m. in the Stryker Building, 412 North Boundary Street, to consider the following:

**PCR #13-039:** Amend the Conditional Zoning section of the Zoning Ordinance to update provisions on cash proffers [Sec. 21-77] and notice requirements for amending approved zoning proffers [Sec. 21-81] to reflect the latest changes made to the Virginia Code.

**PCR #13-040:** Amend the Site Plan section of the Zoning Ordinance to defined when an approved site plan becomes a final site plan [Sec. 21-777(b)(4)c.], based on recent changes to the Virginia Code.

**PCR #13-041:** Amend the Zoning Ordinance to correct cross references to the Virginia Code [Sec. 21-81 and Sec. 21-616].

Additional information is available at [www.williamsburgva.gov/publicnotice](http://www.williamsburgva.gov/publicnotice) or at the Planning Department [(757) 220-6130], 401 Lafayette Street. Interested citizens are invited to attend this hearing and present their comments to the Council.

If you are disabled and need accommodation in order to participate in the public hearing, please call the City Manager's office at (757) 220-6100, (TTY) 220-6108, no later than 12:00 noon, Thursday, January 2, 2014.

Donna F. Scott  
City Council Clerk



## CITY OF WILLIAMSBURG

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### MEMORANDUM

**DATE:** December 19, 2013

**SUBJECT: PCR #13-039**  
**Amend Conditional Zoning regulations on cash proffers and notice requirements**

**PCR #13-040**  
**Amend Site Plan regulations to define a final site plan**

**PCR #13-041**  
**Correct Zoning Ordinance cross-references to the Virginia Code**

These three cases make minor changes to the City's Zoning Ordinance based on recent changes made to the Virginia Code. It is mandatory that the City brings its ordinances into compliance with the Virginia Code changes.

**PCR #13-039** places limitations on the use of cash proffers made to the City, and allows City Council to waive public hearing and notice requirements for amending proffers if the change does not affect conditions of use or density; or in order to reduce, suspend, or eliminate outstanding cash proffer payments for residential construction calculated on a per-dwelling-unit or per-home basis that have been agreed to, but unpaid, by any landowner.

**PCR #13-040** defines what constitutes a final site plan. A site plan is final if it has been approved by the Planning Commission (regular site plan) or Zoning Administrator (minor site plan), and if the only remaining requirements to obtain a building permit are posting or required bonds and escrows or the submission of any other administrative documents, agreements, deposits or fees required in order to issue the permit.

**PCR #13-041** corrects two references to the Virginia Code pertaining to required public hearings [Sec. 21-81], and exterior building maintenance [Sec. 21-616]. The substance of these two sections is not affected by this change.

### **STAFF RECOMMENDATION**

Staff recommends that Planning Commission recommend to City Council that these minor changes to the Zoning Ordinance (PCR #13-039, #13-040 and #13-041) be approved, as detailed in the attached ordinances.

## **PLANNING COMMISSION RECOMMENDATION**

Planning Commission held a public hearing on these changes on December 18. No one spoke at the public hearing. Planning Commission recommended, by a vote of 6-0, that these minor changes to the Zoning Ordinance (PCR #13-039, #13-040 and #13-041) be approved, as detailed in the attached ordinances.

## **CITY COUNCIL PUBLIC HEARING**

The City Council public hearing on this case is scheduled for January 9, 2014 at 2:00 p.m. in the Council Chamber at the Stryker Building, 412 North Boundary Street.

A handwritten signature in black ink that reads "Reed T. Nester". The signature is written in a cursive, flowing style.

Reed T. Nester, AICP  
Planning Director

**ORDINANCE #14-\_\_**  
**PROPOSED ORDINANCE #14-05**

**AN ORDINANCE AMENDING CHAPTER 21, ZONING, ARTICLE II,  
ADMINISTRATION, DIVISION 4, CONDITIONAL ZONING, SECS. 21-77 AND 21-81,  
PERTAINING TO CASH PROFFERS AND WAIVER OF NOTICE AND PUBLIC  
HEARING AS TO CERTAIN PROFFER AMENDMENTS  
(PCR #13-039)**

**WHEREAS**, at its 2013 Session the Virginia General Assembly enacted House Bill 2239 that adds a new subparagraph D of Virginia Code § 15.2-2303.2 to place limitations on the use of cash deposited with localities pursuant to cash proffers; and

**WHEREAS**, House Bill 2265 also enacted at such 2013 General Assembly session modifies certain notice requirements of Virginia Code section 15.2-2302 relative to amendment of approved zoning proffers; and

**WHEREAS**, it is necessary to amend Williamsburg's zoning ordinance to reflect such amendments as well as to bring City Code section 21-77 into conformity with other provisions of said Virginia Code sections;

**BE IT ORDAINED** that Chapter 21, Zoning, Article II, Administration, Division 4, Conditional Zoning be amended to read as follows:

**Sec. 21-77. Proffer of conditions.**

(a) Prior to a public hearing before the city council, in accordance with the provisions of Division 3, Amendments, of this article, the owner or owners of property sought to be rezoned under the provisions of this chapter may voluntarily proffer in writing reasonable conditions, in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. Said conditions shall be proffered as a part of the requested rezoning or amendment to the official zoning map. Conditions so proffered are subject to the following limitations:

- (1) The rezoning itself must give rise for the need for the conditions;
- (2) Such conditions shall have a reasonable relation to the rezoning;
- (3) All such conditions shall be in conformity with the city's comprehensive plan;
- (4) No proffer shall be accepted by the city unless it has adopted a capital improvement program pursuant to Virginia Code, § 15.2-2239. In the event proffered conditions include the dedication of real property or payment of cash, such property shall not transfer and such payment of cash shall not be made until the facilities for which such property is dedicated or cash is tendered are included in the capital improvement program; provided, that nothing herein shall prevent the city from accepting proffered conditions which are not normally included in such capital improvement program;
- (5) If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered;

- (6) Reasonable conditions shall not include, however, conditions that impose upon the applicant the requirement to create a property owners' association under Chapter 26 (§ 55-508 et seq.) of Title 55, Code of Virginia, which includes an express further condition that members of a property association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments, and other public facilities not otherwise provided for in § 15.2-2241, Code of Virginia; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the city.
- (7) Payments of cash proffered on a per-dwelling unit or per-home basis for residential construction shall be collected or accepted only after completion of the final inspection and prior to the time of the issuance of any certificate of occupancy for the subject property. In accordance with Virginia Code § 15.2-2303.1:1 C, this paragraph (7) shall expire on July 1, 2017.

(b) Once proffered and accepted as an amendment to the zoning classification of such property, such conditions shall continue in full force and effect until a subsequent amendment changes the zoning classifications of the property; provided, however, that unless expressly repealed, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance. The above notwithstanding pursuant to petition of the owner of land that is subject to approved proffers, city council may approve or amend such proffers in accordance with procedures prescribed in Virginia Code section 15.2-2302.

(c) Proffered cash payments and expenditures.

- (1) For each fiscal year the city shall, (i) include in its capital improvement program created pursuant to Virginia Code § 15.2-2239, or as an appendix thereto, the amount of all proffered cash payments received during the most recent fiscal year for which a report has been filed pursuant to subsection (3), and (ii) include in its annual capital budget the amount of proffered cash payments projected to be used for expenditures or appropriated for capital improvements in the ensuing year.
- (2) No proffered cash payment shall be used for any capital improvement to an existing facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility or for any operating expense of any existing facility such as ordinary maintenance or repair.
- (3) Within three months of the close of each fiscal year the city shall report to the Commission on Local Government the following information for the preceding fiscal year:
  - a. The aggregate dollar amount of proffered cash payments collected by the city;
  - b. The estimated aggregate dollar amount of proffered cash payments that have been pledged to the city and which pledges are not conditioned on any event other than time; and

- c. The total dollar amount of proffered cash payments expended by the city, and the aggregate dollar amount expended in each of the following categories:

<u>Schools</u>	<u>\$ _____</u>
<u>Road and other Transportation Improvements</u>	<u>\$ _____</u>
<u>Fire and Rescue/Public Safety</u>	<u>\$ _____</u>
<u>Libraries</u>	<u>\$ _____</u>
<u>Parks, Recreation, and Open Space</u>	<u>\$ _____</u>
<u>Water and Sewer Service Extension</u>	<u>\$ _____</u>
<u>Community Centers</u>	<u>\$ _____</u>
<u>Stormwater Management</u>	<u>\$ _____</u>
<u>Special Needs Housing</u>	<u>\$ _____</u>
<u>Affordable Housing</u>	<u>\$ _____</u>
<u>Miscellaneous</u>	<u>\$ _____</u>
<u>Total dollar amount expended</u>	<u>\$ _____</u>

- (4) For each fiscal year thereafter during which the city did not accept any proffered cash payments during the preceding fiscal year the city shall within three months of the close of each fiscal year so notify the Commission on Local Government.

**AND BE IT FURTHER ORDAINED** that Chapter 21, Zoning, Article II, Administration, Division 4, Conditional Zoning, section 21-81 be amended to read as follows:

**Sec. 21-81. Amendments and variations of conditions.**

There shall be no amendment or variation of any condition created pursuant to the provisions of this division until after a public hearing before city council advertised pursuant to the provisions of Code of Virginia, § ~~15.1-434~~ 15.2-2204, unless such public hearing or notice are waived by city council as permitted by Virginia Code § 15.2-2302 B or E.

EXCEPT, as here amended, the Williamsburg Code shall remain unchanged.

Adopted: January 9, 2014

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Clyde A. Haulman, Mayor

Attest: \_\_\_\_\_  
Lisa C. Judkins, City Council Clerk

**ORDINANCE #14-\_\_**  
**PROPOSED ORDINANCE #14-06**

**AN ORDINANCE AMENDING CHAPTER 21, ZONING, ARTICLE VII,  
SITE PLANS, SEC. 21-777, PERTAINING TO FINAL SITE PLANS  
(PCR #13-040)**

**WHEREAS**, at its 2013 Session the Virginia General Assembly enacted House Bill 2238 that amends paragraph A of Virginia Code § 15.2-2261 to define when an approved site plan becomes a final site plan; and

**WHEREAS**, it is necessary to amend Williamsburg's zoning ordinance accordingly;

**BE IT ORDAINED** that Chapter 21, Zoning, Article VII, Site Plans, Section 21-777(b)(4)c. be amended to read as follows:

**ARTICLE VII. SITE PLANS**

**Sec. 21-777. In general.**

(b) *Site plan administration.*

(4) Approval of site plans

- a. A decision to approve, approve with conditions or disapprove a site plan shall be made by the planning commission.
- b. When denying a site plan, the planning commission shall state specific reasons for the denial.
- c. Approval of a final site plan shall ~~expire~~ be valid for a period of five years after the date of approval, unless a building permit has been obtained for construction; or, if a building permit has been issued and construction has not commenced, upon the expiration of the building permit. A site plan shall be deemed final once it has been reviewed and approved by the planning commission, per section 21-777(b), or by the zoning administrator or his designee in the case of a minor site plan per section 21- 777(a) if the only requirements remaining to be satisfied in order to obtain a building permit are the posting of any bonds and escrows or the submission of any other administrative documents, agreements, deposits, or fees required by the city in order to obtain the permit. However, any fees that are customarily due and owing at the time of review of the site plan shall be paid in a timely manner. No change or amendment to this chapter adopted subsequent to the date of approval of the site plan shall adversely affect the right of the developer to commence and complete the development in accordance with the approved site plan unless the change or amendment is required to comply with state law or there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare. The above

notwithstanding, in accordance with Virginia Code § 15.2-2209.1B, any valid special exception, special use permit, or conditional use permit outstanding as of January 1, 2011, and related to new residential or commercial development, any deadline in the exception permit, or in the zoning ordinance that requires the landowner or developer to commence the project or to incur significant expenses related to improvements for the project within a certain time, shall be extended until July 1, 2017, or longer as agreed to by the city. The provisions of this subsection shall not apply to any requirement that a use authorized pursuant to a special exception, special use permit, conditional use permit, or other agreement or zoning action be terminated or ended by a certain date or within a set number of years. Such extension shall not be effective unless any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

- d. When a site is being developed in phases, the site plan shall remain valid so long as substantial construction work does not stop for more than two years.

**EXCEPT**, as here amended, the Williamsburg Code shall remain unchanged.

Adopted: January 9, 2014

\_\_\_\_\_  
Clyde A. Haulman, Mayor

Attest: \_\_\_\_\_  
Lisa C. Judkins, City Council Clerk



**ORDINANCE #14-\_\_\_\_\_**  
**PROPOSED ORDINANCE #14-07**

**AN ORDINANCE TO AMEND VARIOUS SECTIONS OF THE ZONING ORDINANCE  
TO CORRECT CROSS REFERENCES TO THE VIRGINIA CODE  
(PCR #13-041)**

**WHEREAS**, Title 15.1 of the Virginia Code was recodified as Title 15.2, effective December 1, 1997 and as the result of recodification various sections of Title 15.1, although not changed in substance were assigned new section numbers; and

**WHEREAS**, various sections of the Zoning Ordinance make specific reference to sections of the Virginia Code; and

**WHEREAS**, following recodification of Virginia Code Title 15.1, various sections of the Williamsburg Code have been amended to reflect the new Virginia Code section numbers assigned in recodification, but other City Code sections have not been appropriately updated; and

**WHEREAS**, it is desirable to update such City Code sections to properly reflect the pertinent sections of Virginia Code Title 15.2;

**BE IT ORDAINED** that the following sections of the Zoning Ordinance are hereby amended to read as follows:

**Sec. 21-81. Amendments and variations of conditions.**

There shall be no amendment or variation of any condition created pursuant to the provisions of this division until after a public hearing before city council advertised pursuant to the provisions of Code of Virginia, § ~~15.1-431~~ 15.2-2204.

**Sec. 21-616. Building maintenance regulations.**

(a) *Intent*. These regulations, as allowed by § ~~15.1-486~~ 15.2-2280 of the Code of Virginia (1950), as amended, are established to supplement Volume II, Building Maintenance Code, of the Virginia Uniform Statewide Building Code, and to apply in those instances where the structural integrity of a building is not threatened, but where the lack of basic exterior maintenance will have a detrimental effect on adjacent properties and on surrounding neighborhoods by causing property devaluation and the spread of urban blight. Therefore the following exterior building maintenance requirements are in addition to the requirements of Volume II, Building Maintenance Code, of the Virginia Uniform Statewide Building Code.

**EXCEPT**, as here amended, the Williamsburg Code shall remain unchanged.

Adopted: January 9, 2014

\_\_\_\_\_  
Clyde A. Haulman, Mayor

Attest: \_\_\_\_\_  
Lisa C. Judkins, City Council Clerk